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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 ZACKERY CRABTREE,

Case No. 3:19-cv-00479-LRH-CBC

10 Petitioner,

11 v.

ORDER

12 WILLIAM GITTERE, et al.,

13 Respondents.
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15 On August 16, 2019, this court denied petitioner's motion to proceed *in forma*
16 *pauperis* and directed him to pay the filing fee in order to proceed with his petition for
17 writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 3. He has complied with
18 that order and paid the required fee. ECF No. 4. The court has reviewed the petition
19 pursuant to Habeas Rule 4, and the petition shall be filed herein and served upon the
20 respondents.

21 A petition for federal habeas corpus should include all claims for relief of which
22 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be
23 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.
24 §2244(b) (successive petitions). If petitioner is aware of any claim not included in his
25 petition, he should notify the court of that as soon as possible, perhaps by means of a
26 motion to amend his petition to add the claim.

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1 In addition, petitioner has filed a motion for the appointment of counsel. ECF
2 No. 2. Pursuant to 18 U.S.C. §3006A(a)(2)(B), the district court has discretion to appoint
3 counsel when it determines that the “interests of justice” require representation. There is
4 no constitutional right to appointed counsel for a federal habeas corpus proceeding.
5 *Pennsylvania v. Finley*, 481 U.S. 551, 555(1987); *Bonin v. Vasquez*, 999 F.2d 425, 428
6 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v.*
7 *Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th
8 Cir. 1984). However, counsel must be appointed if the complexities of the case are such
9 that denial of counsel would amount to a denial of due process, and where the petitioner
10 is a person of such limited education as to be incapable of fairly presenting his claims.
11 See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.
12 1970). The petition on file in this action is sufficiently clear in presenting the issues that
13 petitioner wishes to bring. Also, the issues in this case are not particularly complex. It
14 does not appear that appointment of counsel is warranted in this instance. Petitioner’s
15 motion for the appointment of counsel is denied.

16 **IT THEREFORE IS ORDERED** that the Clerk shall FILE the petition for writ of
17 habeas corpus (ECF No. 1-1) and motion for appointment of counsel (ECF No. 1-2) and
18 shall ELECTRONICALLY SERVE the petition and a copy of this order on the
19 respondents.

20 **IT IS FURTHER ORDERED** that the Clerk shall add Aaron D. Ford, Attorney
21 General of the State of Nevada, as counsel for respondents.

22 **IT IS FURTHER ORDERED** that respondents shall have 60 days from the date
23 of entry of this order to appear in this action, and to answer or otherwise respond to the
24 petition.

25 **IT IS FURTHER ORDERED** that if respondents file an answer, petitioner shall
26 have 60 days from the date on which the answer is served on him to file and serve a
27 reply. If respondents file a motion to dismiss, petitioner shall have 60 days from the
28 date on which the motion is served on him to file and serve a response to the motion to


1 dismiss, and respondents shall, thereafter, have 30 days to file a reply in support of the
2 motion.

3 **IT FURTHER IS ORDERED** that any additional state court record exhibits filed
4 herein by either petitioner or respondents shall be filed with a separate index of exhibits
5 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
6 be identified by the number or numbers of the exhibits in the attachment. The hard
7 copy of any additional state court record exhibits shall be forwarded – for this case – to
8 the staff attorneys in **Reno**.

9 **IT FURTHER IS ORDERED** that petitioner's motion for appointment of counsel is
10 DENIED.

11 **IT FURTHER IS ORDERED** that petitioner's motion for status check (ECF No. 5)
12 is DENIED as moot.

13 DATED this 11th day of September, 2019.

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16 LARRY R. HICKS
17 UNITED STATES DISTRICT JUDGE
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